

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

State of Minnesota,

Plaintiff,

v.

No. 12-cr-146 (JNE)
ORDER

Darin D. Davidson,

Defendant.

This is a criminal case. The defendant, Darin D. Davidson, is charged in Carlton County District Court (Minnesota District Court, Sixth Judicial District) with one count of assault in the third degree and one count of disorderly conduct. He seeks removal of the case to federal court. The Court remands the prosecution to state court.

Removal of state criminal cases is only authorized in a very narrow set of circumstances. Defendant's notice of removal does not assert that any of those circumstances is present here, and the Court's own review of the file reveals no indication that such a circumstance might be present.

Pursuant to the requirement of 28 U.S.C. § 1455(b)(4) the Court examined the case to determine whether removal is appropriate. Removal is not appropriate and so this case must be summarily remanded. *See, e.g., State of Minnesota v. Jenkins*, 145 F. App'x 564 (8th Cir. 2005). Similar notices of removal have been filed by other individuals who, like Defendant, are civilly committed to the Minnesota Sex Offender Program in Moose Lake, Minnesota. While it is true that Defendant's commitment is civil, the matter he attempts to remove is criminal. It is alleged that Defendant assaulted another person within the confines of the Moose Lake facility. The assertions of constitutional violations Defendant makes are not the type that would bring this prosecution within the narrow scope of removable criminal actions. *See State of Minnesota v.*

Russell L. Norton, No. 12-CR-153 (RHK) (D. Minn. June 13, 2012) (remanding to state court the criminal prosecution of a defendant committed to the Moose Lake facility and charged with escape); *State of Minnesota v. Steven A. Housman*, No. 12-CR-154 (PJS) (D. Minn. June 13, 2012) (same); *see also State of Minnesota v. Eilertson*, 12-CR-37 (JNE) (D. Minn. Mar. 2, 2012) (remanding to state court the criminal prosecution of defendants not committed to any facility and charged with violations of Minnesota fraud statutes).

Based on the foregoing, and the files, records, and proceedings herein, IT IS ORDERED THAT this case is summarily REMANDED to the Carlton County, Minnesota District Court, Sixth Judicial District. The Clerk of Court shall mail to the Clerk of the Carlton County District Court a certified copy of this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 18, 2012

s/ Joan N. Erickson
JOAN N. ERICKSEN
United States District Judge